

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

GLEN CRAIG,

Plaintiff,

- against -

UNIVERSAL MUSIC GROUP, INC.,
KINGSID VENTURES, LTD., and ESTATE OF RILEY
B. KING

Docket No. _____

JURY TRIAL DEMANDED

Defendants.

COMPLAINT

Plaintiff Glen Craig (“Craig” or “Plaintiff”) by and through his undersigned counsel, as and for his Complaint against Defendants Universal Music Group, Inc. (“Universal”) and Kingsid Ventures, Ltd (“Kingsid”), Estate of Riley B. King (“Estate”) and together (“Defendants”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act and for the removal and/or alteration of copyright management information under Section 1202(b) of the Digital Millennium Copyright Act. This action arises out of Defendants’ unauthorized reproduction and public display of copyrighted photographs of legendary blues singer and songwriter B.B. King owned and registered by Craig, a New York based music photojournalist. Accordingly, Craig seeks injunctive and monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Universal because Universal resides in and/or are doing business in New York. This Court has personal jurisdiction over Kingsid and Estate because their activities within the State of New York have given rise to this claim.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Glen Craig is a famed professional music photojournalist with a storied career, replete with intimate access to the biggest musical talent in the industry. Craig is in the business of licensing his photographs to online, print, and television stations for a fee, having a usual place of business at 30-60 Crescent Street, Apt. 2C, Astoria, NY 11102. Craig has won numerous awards including Leica's Photo Kina's Top Photographer Award in 2014 and his work has appeared in galleries around the world.

6. Upon information and belief, Universal is a corporation duly organized and existing under the laws of the State of Delaware, with a place of business at 1755 Broadway New York, New York 10019. Upon information and belief, Universal is registered with the New York Department of State, Division of Corporations to do business in the State of New York.

7. Upon information and belief, Kingsid is corporation duly organized and existing under the laws of the State of Delaware.

8. Upon information and belief, Estate is the estate of deceased blues singer B.B. King that is managed by Louise LaVerne Toney. Ms. Toney is a legal trustee of Riley B. King Trust and an executor of the Estate of Riley B. King.

STATEMENT OF FACTS

A. Background and Plaintiff's Ownership of the Photographs

9. Craig photographed B.B. King in a series of photographs during his music tours (the "Photographs"). True and correct copies of the Photographs are attached hereto as Exhibit A.

10. Craig is the author of the Photographs and has at all times been the sole owner of all right, title and interest in and to the Photographs, including the copyrights thereto.

11. The Photographs were registered with Copyright Office and were given Copyright Registration Number VAu001159683.

B. Defendants Infringing Activities

12. Upon information and belief, in or around 1971 and continuing to the present day, Kingsid and Estate improperly facilitated and wrongly benefited from Universal's publishing of a series of Audio CDs, LPs and digital downloads of B.B. King's Music using Craig's Photographs without a license, permission or consent. The multitude of box sets and single CDs/LPs/downloads prominently featured the Photographs, including but not limited to their respective covers.

13. Upon information and belief, in or around 2012, Universal published a 10CD Box Set entitled, *Ladies and Gentlemen...Mr. B. B. King*, and released it under their UMG/Amazon.com Exclusive label. A true and correct copy of the cover featuring one of the infringing Photographs is attached hereto as Exhibit B.

14. Upon information and belief, in or around March 15, 2005, Universal published a disc entitled, *The Ultimate Collection*, under the Geffen Records label with UPC 602498266137.

A true and correct copy of the cover and one of the infringing Photographs featured on the back of the CD are attached hereto as Exhibit C.

15. Upon information and belief, in or around October 20, 1992, Universal published a 10CD Retrospective Box Set entitled, *Ladies and Gentlemen...Mr. B. B. King*, under its HIP O/Universal label with UPC 600753384992. A true and correct copy of the Box Set cover featuring one of the infringing Photographs is attached hereto as Exhibit D.

16. Upon information and belief, in or around October 20, 1992, Universal published a 4 CD Box Set entitled, *B. B. King King of the Blues*, under its MCA Records MCAD4-1-677 label with UPC 008811067724. A true and correct copy of the Box Set cover and the booklet found inside that features one of the infringing Photographs are attached hereto as Exhibit E.

17. Upon information and belief, in or around April 06, 1992, the Universal published a CD entitled, *Why I sing the Blues*, under its MCA Special Products label with UPC 00767420256-2. A true and correct copy of the cover featuring one of the infringing Photographs is attached hereto as Exhibit F.

18. Upon information and belief, in or around June 05, 2007, Universal published a CD entitled, *Why I sing the Blues*, under its MCA Special Products label with UPC 602517372313. A true and correct copy of the cover featuring one of the infringing Photographs is attached hereto as Exhibit G.

19. Upon information and belief, in or around March 19, 1992, Universal published a First Release CD of an original recording entitled, *Best of B. B. King and Bobby Bland*, under its Geffen USA label. A true and correct copy of the cover featuring one of the infringing Photographs is attached hereto as Exhibit H.

20. Upon information and belief, in or around May 19, 1999, Universal published a disc entitled, *Live in Japan B. B. King*, under its MCA Records USA label with UPC 008811181024, MCA 0111810. A true and correct copy of the CD cover, front and back, as well as the back cover of the liner notes – all featuring two of the infringing Photographs, are attached hereto as Exhibit I.

21. Upon information and belief, in or around October 9, 1992, Universal published a 4CD Box Set entitled, *Ladies and Gentlemen Mr. B. B. King*, under its HIP O/Universal USA label with UPC 6007533908-6. A true and correct copy of the Box Set cover featuring one of the infringing Photographs is attached hereto as Exhibit J.

22. Upon information and belief, in or around November 6, 2015, Universal published a 2LP Set entitled, *Ladies and Gentlemen Mr. B. B. King*, under its Universal Music label with UPC 60075362973-4. A true and correct copy of the front cover featuring one of the infringing Photographs is attached hereto as Exhibit K.

23. Upon information and belief, in or around September 16, 2015, Universal published Limited Edition 4CD Box Set entitled, *Ladies and Gentlemen Mr. B. B. King*, under its Universal Japan UICY-77439 label with ASIN BO11CW5MV6, EIN 4988031111055. A true and correct copy of the Box Set cover featuring one of the infringing Photographs and screenshots of two different Universal websites selling the Box Set featuring the same infringing Photograph are attached hereto as Exhibit L.

24. Upon information and belief, in or around November 11, 2015, Universal published a 2LP Set entitled, *Ladies and Gentlemen Mr. B. B. King*, under its Universal Japan label 536-2973. True and correct copies of the 2LP cover featuring one of the infringing

Photographs and a screenshot of Universal's website selling the LP Set featuring the same infringing Photograph are attached hereto as Exhibit M.

25. Upon information and belief, in or around August 19, 2014, Universal published a 2CD Box set entitled, *King of the Blues No Frills LP*, under its Universal Records UK with UPC 506039760107. A true and correct copy of the cover of the 2CD box set and the booklet found inside that features one of the infringing Photographs are attached hereto as Exhibit N.

26. Upon information and belief, in or around September 16, 2015 – September 25, 2015, the Universal published a CD entitled, *B. B. King Live in Japan Limited Edition*, under its Universal Records Japan label, with ASIN 8011CW5P22, UPC 4988031111963; UICY-77467. True and correct copies of a CD cover, front and back, as well as the back cover of the liner notes, and three different screenshots of three different Universal websites selling the CD – all featuring two of the infringing photographs are attached hereto as Exhibit O.

27. Upon information and belief, in or around 1992, Universal published a CD entitled, *B. B. King Live in Japan*, under its Universal Records Japan label, MCA MVCM 253. A true and correct copy of the CD cover featuring one of the infringing Photographs is attached hereto as Exhibit P.

28. Upon information and belief, in or around 1999, Universal published a CD entitled, *B. B. King Live in Japan*, under its Universal Records South Africa label, FPBCD 215. A true and correct copy of the CD cover featuring one of the infringing Photographs is attached hereto as Exhibit Q.

29. Upon information and belief, in or around June 18, 2013, Universal published a 2CD set entitled, *B. B. King Live in Japan*, under its Geffen label, UCIY 94845, GW 131-2. A

true and correct copy of the CD cover, front and back, featuring two of the infringing Photographs is attached hereto as Exhibit R.

30. Upon information and belief, in or around 1971, Universal published a 2LP set entitled, *B. B. King Live in Japan LP*, under its ABC Records Japan label G W 131-2. A true and correct copy of the LP cover featuring one of the infringing Photographs is attached hereto as Exhibit S.

31. Upon information and belief, in or around 1992, Universal published a CD, entitled, *B. B. King Live in Japan*, under its Universal Victor label, ASIN B00005GSET. A true and correct copy of a CD cover featuring one of the infringing Photographs is attached hereto as Exhibit T.

32. Upon information and belief, in or around September 25, 2015, Universal published a CD entitled, *B.B. King Live in Japan*, under its Universal Records Japan label, with ASIN 801ABAVTKS, UPC 988005743992, Universal UICY 94845. A true and correct copy of the CD cover featuring one of the infringing Photographs is attached hereto as Exhibit U.

33. Upon information and belief, in September 16, 2015, Universal published online a 4CD Box Set entitled, *Ladies and Gentlemen Mr. B. B. King*, under its Universal Music Japan label UICY-77439. It was available on www.universal-music.co.jp and listed on <http://content-jp.umgi.net/products/ui/UICY-77439>. True and correct copies of the websites offering for sale the Box Set featuring one of the infringing Photographs is attached hereto as Exhibit V.

34. Upon information and belief, in September 24, 2012, Universal published a 10 CD Box Set entitled, *Ladies and Gentlemen Mr. B. B. King*, under its Universal Music France label with ASIN B0008M4HJSW. A true and correct copy of the Box Set cover featuring one of the infringing Photographs is attached hereto as Exhibit W.

35. Upon information and belief, in September 22, 2012, Universal published a 10 CD Box Set entitled, *Ladies and Gentlemen Mr. B. B. King*, under its Universal Music Germany label, released as a Digital Download. A true and correct copy of the Box Set cover featuring one of the infringing Photographs is attached hereto as Exhibit X.

36. Upon information and belief, in September 24, 2012, Universal published a 4CD Box Set entitled, *Ladies and Gentlemen Mr. B. B. King*, under its Universal Music France label with UPC 600753384992, ASIN B008LA8E9K. A true and correct copy of the Box Set cover featuring one of the infringing Photographs is attached hereto as Exhibit Y.

37. Upon information and belief, in or around September 21, 2012, Universal published a 4CD Box Set entitled, *Ladies and Gentlemen Mr. B. B. King*, under its Universal Music Australia Pty Ltd label, with UPC 600753406946. A true and correct copy of the Box Set cover featuring one of the infringing Photographs is attached hereto as Exhibit Z.

38. Upon information and belief, in or around November 06, 2015, Universal published a 2LP Set entitled, *Ladies and Gentlemen Mr. B. B. King*, under its Universal Music France label, with ASIN B013UN5HZ6. A true and correct copy of the set cover featuring one of the infringing Photographs is attached hereto as Exhibit AA.

39. Upon information and belief, in or around November 06, 2015, Universal published a 2LP Set entitled, *Ladies and Gentlemen Mr. B. B. King*, under its Geffen USA label with UPC 0075362973-4. A true and correct copy of the set cover featuring one of the infringing Photographs is attached hereto as Exhibit BB.

40. Upon information and belief, in or around October 2, 2000, Universal published a 4CD box set entitled, *B.B. King of the Blues Box Set*, under its MCA Distribution France Import

label, ASIN B000002OMC. A true and correct copy of the Box Set cover and the booklet found inside that features one of the infringing Photographs are attached hereto as Exhibit CC.

41. Upon information and belief, in or around October 2, 2009, Universal published a CD entitled, *B.B. King Live in Japan Digital Reissue*, under its Universal Music Australia PTY LTD label, with UPC 00008811181024. A true and correct copy of the CD cover featuring one of the infringing Photographs is attached hereto as Exhibit DD.

42. Upon information and belief, in or around June 12, 2015, Universal published a CD entitled, *B.B. King Live in Japan*, under its Universal Music France label, with ASIN B00000J2TK. A true and correct copy of the CD cover, front and back, featuring two of the infringing Photographs is attached hereto as Exhibit EE.

43. Upon information and belief, in or around June 12, 2012, Universal published a CD entitled, *B.B. King Live in Japan*, under its Geffen Records USA label. A true and correct copy of the CD cover featuring one of the infringing Photographs is attached hereto as Exhibit FF.

44. Upon information and belief, in or around December 18, 2012, Universal published a CD entitled, *B.B. King Live in Japan Digital Re-Mastered*, under its Universal Records Japan label, with ASIN 8009K6GJKK, EIN 4988005743992. A true and correct copy of the CD cover featuring one of the infringing Photographs is attached hereto as Exhibit GG.

45. Upon information and belief, in or around May 5, 2012, Universal published a CD entitled, *B.B. King Live in Japan Digital Re-Mastered*, under its Universal Records Germany label, as a digital download. A true and correct copy of the CD cover featuring one of the infringing Photographs is attached hereto as Exhibit HH.

46. Upon information and belief, in or around 2008, Universal published a CD entitled, *B.B. King Live in Japan Digital Re-Mastered*, under its Universal Music Japan label, with EIN B0008811181924, ASIN B00000J2T. A true and correct copy of the CD cover featuring one of the infringing Photographs is attached hereto as Exhibit II.

47. Upon information and belief, in or around September 16, 2015, Universal published a CD entitled, *B. B. King Live in Japan Digital Re-Mastered*, under its Universal Records Japan label, with ASIN 801ABAVTKS, UPC 4988031111963; UICY-77467. True and correct copies of a CD cover, front and back, as well as the back cover of the liner notes – all featuring two of the infringing photographs are attached hereto as Exhibit JJ.

48. Upon information and belief, in or around May 19, 1999, Universal published a CD entitled, *Live in Japan B.B. King*, under its MCA Records USA label, with UPC 008811181024, MCA 0111810. A true and correct copy of the CD cover featuring one of the infringing Photographs is attached hereto as Exhibit KK.

49. Upon information and belief, in or around January 2, 2000 Universal published a CD entitled, *B.B. King Live in Japan Re-mastered*, under its MCA Records/Universal Germany label, with ASIN B00000J2TK. A true and correct copy of the CD cover featuring one of the infringing Photographs is attached hereto as Exhibit LL.

50. Upon information and belief, in or around 1980, Universal published a 2LP set entitled, *B. B. King Live in Japan LP*, under its MCA Records Japan label VIM 4060. A true and correct copy of the LP cover featuring one of the infringing Photographs is attached hereto as Exhibit MM.

51. Upon information and belief, in or around June 12, 2007, Universal published a CD entitled, *Why I sing the Blues*, under its Universal Music Germany label, sold as digital

download. A true and correct copy of the cover featuring one of the infringing Photographs is attached hereto as Exhibit NN.

52. Upon information and belief, in or around March 18, 2013, Universal published a CD entitled, *Best of B. B. King and Bobby Bland*, under its Geffen Music Australia Pty Ltd label, with UPC 00076742070625. A true and correct copy of the cover featuring one of the infringing Photographs is attached hereto as Exhibit OO.

53. Upon information and belief, in or around March 19, 2013, Universal published a CD entitled, *Best of B. B. King and Bobby Bland*, under its Geffen Music Germany label, as a digital download. A true and correct copy of the cover featuring one of the infringing Photographs is attached hereto as Exhibit PP.

54. Upon information and belief, in or around October 9, 2009, Universal published a CD entitled, *Live/Fillmore East New York N.Y. June 18, 1971 B. B. King*, under its Universal Music Australia Pty Ltd label, with UPC 00602527237060. A true and correct copy of the cover featuring one of the infringing Photographs is attached hereto as Exhibit QQ.

55. Upon information and belief, in or around October 13, 2009, Universal published a CD entitled, *Live/Fillmore East New York N.Y. June 18, 1971 B. B. King*, under its Universal Music Germany label, as digital download. A true and correct copy of the cover featuring one of the infringing Photographs is attached hereto as Exhibit RR.

56. Defendants did not license the Photographs from Plaintiff for its issued CDs/LPs/downloads, nor did Defendants have Plaintiff's permission or consent to publish the Photographs.

57. Upon information and belief, Universal did not attribute the Photographs to anyone.

FIRST CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST DEFENDANTS)
(17 U.S.C. §§ 106, 501)

58. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-57 above.

59. Defendants infringed Plaintiff's copyright in the Photographs by reproducing and publicly displaying the Photographs in the CDs/LPs/downloads. Defendants are not, and have never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photographs.

60. The acts of Defendants complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

61. Upon information and belief, the foregoing acts of infringement by Defendants have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

62. As a direct and proximate cause of the infringement by the Defendants of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and Defendants' profits pursuant to 17 U.S.C. § 504(b) for the infringement.

63. Alternatively, Plaintiff is entitled to statutory damages up to \$150,000 per work infringed for Defendants' willful infringement of the Photograph, pursuant to 17 U.S.C. § 504(c).

64. Plaintiff further is entitled to his attorney's fees and full costs pursuant to 17 U.S.C. § 505.

65. Defendants' conduct, described above, is causing, and unless enjoined and restrained by this Court, will continue to cause Plaintiff irreparable injury that cannot be fully

compensated by or measured in money damages. Plaintiff has no adequate remedy at law. Pursuant to 17 U.S.C. § 502, Plaintiff is entitled to a permanent injunction prohibiting further infringement of Plaintiff's copyrights and exclusive rights under copyright.

SECOND CLAIM FOR RELIEF
INTEGRITY OF COPYRIGHT MANAGEMENT INFORMATION AGAINST
DEFENDANTS
(17 U.S.C. § 1202)

66. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-65 above.

67. The Photographs contained copyright management information protected under 17 U.S.C. § 1202(b).

68. Upon information and belief, in its CDs/LPs/downloads, Defendants intentionally and knowingly removed copyright management information identifying Plaintiff as the photographer of the Photographs.

69. The conduct of Defendants violates 17 U.S.C. § 1202(b).

70. Upon information and belief, Defendants' falsification, removal and/or alteration of the aforementioned copyright management information was made without the knowledge or consent of Plaintiff.

71. Upon information and belief, the falsification, alteration and/or removal of said copyright management information was made by Defendants intentionally, knowingly and with the intent to induce, enable, facilitate, or conceal their infringement of Plaintiff's copyrights in the Photographs. Defendants also knew, or should have known, that such falsification, alteration and/or removal of said copyright management information would induce, enable, facilitate, or conceal their infringement of Plaintiff's copyrights in the Photographs.

72. As a result of the wrongful conduct of Defendants as alleged herein, Plaintiff is entitled to recover from Defendants the damages, that he sustained and will sustain, and any gains, profits and advantages obtained by Defendants because of their violations of 17 U.S.C. § 1202, including attorney's fees and costs.

73. Alternatively, Plaintiff may elect to recover from Defendants statutory damages pursuant to 17 U.S.C. § 1203(c)(3) in a sum of at least \$2,500 up to \$25,000 for each violation of 17 U.S.C. § 1202.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendants be adjudged to have infringed upon Plaintiff's copyrights in the Photographs in violation of 17 U.S.C §§ 106 and 501;
2. The Defendants be adjudged to have falsified, removed and/or altered copyright management information in violation of 17 U.S.C. § 1202.
3. That Defendants, and their officers, directors, employees, agents, representatives, affiliates, subsidiaries, distributors, licensees and all persons or entities acting in concert or participation with any Defendant be enjoined from copying, reproducing, distributing, adapting, or publicly displaying Plaintiff's Photographs, pursuant to 17 U.S.C. § 502;
4. Plaintiff be awarded either: a) Plaintiff's actual damages and Defendants' profits, gains or advantages of any kind attributable to Defendants' infringement of Plaintiff's Photographs; or b) alternatively, statutory damages of up to \$150,000 per copyrighted work infringed pursuant to 17 U.S.C. § 504;

5. That, with regard to the Second Claim for Relief, Plaintiff be awarded either:
 - a) Plaintiff's actual damages and Defendants' profits, gains or advantages of any kind attributable to Defendants' falsification, removal and/or alteration of copyright management information; or b) alternatively, statutory damages of at least \$2,500 and up to \$ 25,000 for each instance of false copyright management information and/or removal or alteration of copyright management information committed by Defendants pursuant to 17 U.S.C. § 1203(c);
6. That Defendants be required to account for all profits, income, receipts, or other benefits derived by Defendants as a result of its unlawful conduct;
7. That Plaintiff be awarded his costs, expenses and attorneys' fees pursuant to 17 U.S.C. § 505;
8. That Plaintiff be awarded pre-judgment interest; and
9. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York
July 7, 2016

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